

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, and
DJ BENNETT, Revenue Officer,

Petitioners,

No. C 06-4413 PJH

v.

ORDER OF CONTEMPT

SERGIO RODRIGUEZ,

Respondent.

This matter came before the court for hearing on March 21, 2007, upon the court's Order to Show Cause Re Contempt entered on January 24, 2007. Thomas Moore and Kelsey Arnold appeared on behalf of the United States and Sergio Rodriguez ("Rodriguez") appeared on his own behalf.

On September 20, 2006, the court entered an Order Granting Petition to Enforce Internal Revenue Service Summons ("Order Enforcing Summons"), which ordered Rodriguez to provide documents and give testimony on those documents in compliance with a valid summons issued by the United States. Rodriguez did not comply with that order and the United States applied for an Order to Show Cause Re Contempt. On January 24, 2007, the court ordered Rodriguez to appear on March 21, 2007 to show cause why he should not be held in contempt for failing to comply with the court's September 20, 2006 order enforcing summons.

Rodriguez did not respond to the order to show cause in writing but did appear for the hearing on March 21, 2007. Although Rodriguez has been "working on" trying to complete the tax returns required by the summons, he had no excuse for failing to provide the other documents or his testimony on those documents. Accordingly, the court found by

1 clear and convincing evidence that Rodriguez violated the September 20, 2006 order
2 enforcing summons; that his violation did not constitute substantial compliance with the
3 order; and that the violation was not based on a good faith and reasonable interpretation of
4 the order. United States v. Ayres, 166 F.3d 991, 994 (9th Cir. 1999). Accordingly,
5 Rodriguez was adjudged in contempt of this court.

6 The court having found Rodriguez in contempt, it is hereby ordered

- 7 1. That Rodriguez shall meet with an IRS agent to produce the summoned
8 documents and give testimony concerning those documents within 10 days of
9 the date of the hearing.
- 10 2. That Rodriguez shall produce correct copies of his tax returns currently in
11 possession of his tax preparer within 30 days of the date of the hearing.
- 12 3. If Rodriguez meets both of these deadlines, he will be purged of any further
13 penalty for his contempt.
- 14 4. If Rodriguez fails to meet either of these deadlines, a daily penalty of \$500 will
15 be imposed for each day that he is not in compliance. Upon the thirtieth day
16 of non-compliance, the United States may petition the court for a further
17 hearing on this matter for the purpose of seeking a larger or different penalty
18 for the non-compliance.

19
20 **IT IS SO ORDERED.**

21 Dated: March 22, 2007



PHYLLIS J. HAMILTON
United States District Judge